

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS BLUMENTHAL, III,

Plaintiff,

v.

Case No. 12-11859

Honorable John Corbett O'Meara

THOMAS COMBS, *et al.*,

Defendants.

ORDER

DENYING PLAINTIFF'S MOTION TO SET ASIDE JUDGMENT

This matter came before the court on the April 5, 2013 motion to set aside judgment filed by plaintiff Thomas Blumenthal, III. Defendants filed a response April 23, 2013; no oral argument was heard.

On March 13, 2013, this court entered an order denying Plaintiff's motion for preliminary injunction and granting Defendants' motion for summary judgment. In the order the court "presume[d] that the issues ha[d] been rendered moot by parole conditions that [were] modified since Plaintiff filed his complaint." Order at 2. Plaintiff asserts that the court was incorrect in the presumption; and that although his terms of parole had been modified to allow visitation with his children, he is still not permitted to live with them.

However, in setting the terms of Plaintiff's parole, "Defendants were not obligated to bestow on Plaintiff any more liberty than he could have expected as a prison inmate serving the term of his sentence." Catanzaro v. Harry, 848 F. Supp. 2d 780, 794 (W.D. Mich. 2012). In this case, while Plaintiff was incarcerated he would have been allowed visitation with his children, but he could not live with them. The same degree of contact is allowed under Plaintiff's parole conditions. Despite

the court's presumption that the issues in this litigation were moot, correcting that defect would not result in a different disposition of the case.

ORDER

It is hereby **ORDERED** that Plaintiff's April 5, 2013 motion to set aside judgment is **DENIED**.

s/John Corbett O'Meara
United States District Judge

Date: May 3, 2013

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, May 3, 2013, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager